

State of Connecticut

HOUSE OF REPRESENTATIVES
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE VINCENT J. CANDELORA
EIGHTY-SIXTH ASSEMBLY DISTRICT

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DEPUTY REPUBLICAN LEADER

MEMBER
EXECUTIVE & LEGISLATIVE NOMINATIONS
FINANCE, REVENUE AND BONDING COMMITTEE
REGULATIONS REVIEW COMMITTEE
PLANNING AND DEVELOPMENT COMMITTEE
LEGISLATIVE MANAGEMENT COMMITTEE

Testimony On

**HB 6547 - AN ACT CONCERNING THE RESPONSIBILITIES OF THE
DEPARTMENT OF PUBLIC HEALTH UPON RECEIVING NOTICE OF A
MALPRACTICE CLAIM OR SETTLEMENT INVOLVING A HEALTH CARE
PROVIDER PRESENTLY OR FORMERLY LICENSED BY THE STATE.**

Public Health Public Hearing

March 11, 2011

Senators Gerratana, Slossberg, Welch, and Kane; Representatives Ritter, Lyddy, and Perillo and the honorable members of the Public Health Committee:

I support this bill raised to require the Department of Public Health, upon notification of a medical malpractice award or settlement against an individual licensed by the department, to notify the licensing agency of any other state or territory where the individual is known or believed to be practicing of such award or settlement.

I would ask this committee to expand the scope of this bill to require that the Department of Public Health be required to investigate and make a recommendation upon receiving notice of a malpractice settlement involving a health care provider in this state. There is an important public safety component in the Department ensuring that the public is being treated with an appropriate level of care. I am deeply concerned that the Department has discretion over whether to investigate a doctor when he or she has been found to not only breach a standard of care on a patient, but acts with a level of disregard that amounts to recklessness.

I have attached some correspondence between a constituent of mine and the Department of Public Health which I think demonstrates the problem this legislation would address. Thank you for raising this bill and for giving its passage serious consideration.

Sincerely,

Vincent J. Candelora

Vincent J. Candelora
Deputy House Republican Leader
Attachments (5)

Via Facsimile

October 21, 2010

Kathleen Bouleware
Public Health Services Manager
State of Connecticut
Department of Public Health
410 Capitol Avenue
Hartford, CT 06134

**Re: Michelle DiLieto vs. County Obstetrics & Gynecology Group, P.C., et al
Connecticut Supreme Court Official Decision: June 29, 2010
(SC 17471); (SC17744)**

Dear Ms. Boulware,

On June 29, 2010 the Connecticut Supreme Court ruled unanimously in my favor regarding the above captioned medical malpractice lawsuit, which was filed in 1997. According to the Connecticut General Statute below, Chartis Insurance, the medical malpractice carrier for defendants County Obstetrics & Gynecology Group, P.C., and Yale University School of Medicine, had a legal obligation to notify the Department of Public Health regarding the terms of the award, and the underlying complaint and answer:

Sec. 19a-17a. Review of medical malpractice awards and certain settlements.
Upon entry of any medical malpractice award or upon entering a settlement of a malpractice claim against an individual licensed pursuant to chapter 370 to 373, inclusive, 379 or 383, the entity making payment on behalf of a party or, if no such entity exists, the party, shall notify the Department of Public Health of the terms of the award or settlement and shall provide to the department a copy of the award or settlement and the underlying complaint and answer, if any. The department shall review all medical malpractice awards and all settlements to determine whether further investigation or disciplinary action against the providers involved is warranted. Any document received pursuant to this section shall not be considered a petition and shall not be subject to the provisions of section 1-210 unless the department determines, following completion of its review, that further investigation or disciplinary action is warranted.

I contacted your office earlier this week to check on whether or not Chartis Insurance notified you so that you could begin your investigation. Although it has been four months, to date required notification has not been made. Therefore, in order to expedite your investigation please consider this correspondence as a formal complaint against all defendants for the reasons clearly outlined within the Supreme Court's decision. The Supreme Court decision is available on-line at:

www.jud.state.ct.us/external/supapp/Cases/AROCr/CR297/197CR866.pdf

The Justices clearly stated that the defendants breached the standard of care. More importantly, the fact that defendants told me that I was cured of a cancer that they knew that I never had definitely requires that disciplinary action be taken against them. I expect the Department of Public Health to review the Supreme Court's decision, conduct an investigation, and take the appropriate disciplinary actions against doctors. Scott Casper, Obstetrics & Gynecology, 687 Main Street, Branford, CT 06405, Peter Schwartz, Department of Gynecologic Oncology, Yale University School of Medicine, 333 Cedar Street #Fmb328, New Haven, CT 06510, and Babak Edraki, 1455 Montego Cypress Women's Cancer Treatment, Suite 100, Walnut Creek, CA 94598.

Please process my complaint immediately. Any further delay in the process denies me the right to ensure that disciplinary action is taken at the state level against all defendants as soon as possible, and it denies the public their right to vital information. Please free to contact me with any questions at 160 Notch Hill Road, North Branford, CT 06471; telephone (203) 315-8383; mdilieto@hotmail.com

Thank you for your review of this matter. I look forward to your response.

Sincerely,

Michelle DiLieto

Cc: Commissioner J. Robert Galvin, M.D., M.P.H., M.B.A.

**STATE OF CONNECTICUT**

DEPARTMENT OF PUBLIC HEALTH

October 21, 2010

Michelle Dilieto
160 Notch Hill Road
North Branford, CT 06471

Dear Ms. Dilieto:

Your letter concerning care and services provided by Drs. Casper, Schwartz and Edraki has been received by the Practitioner Licensing and Investigations Section and will be reviewed.

The Practitioner Licensing and Investigations Section of the Department of Public Health is responsible for investigating complaints regarding care and services provided by healthcare providers, which we regulate pursuant to the Connecticut General Statutes, the Public Health Code of the State of Connecticut and/or the Code of Federal Regulations.

Please be advised that the Department has no jurisdiction to investigate or pursue disciplinary action against a physician if his license to practice medicine in the State of Connecticut has lapsed for longer than eighteen months. As Dr. Babak Edracki's license lapsed in 1996, the Department will not pursue an investigation of this matter as far as his involvement in your case is concerned.

If the Department pursues an investigation regarding Dr. Casper and Dr. Schwartz, you will be notified as to the name of the Investigator assigned to your petition. To review additional information regarding the investigation process, you may wish to visit the Consumer Guide located at

http://www.ct.gov/dph/lib/dph/facility_licensing_and_investigations/pdf/consumer_guide.pdf.

Thank you for bringing these issues to the attention of the Department.

Respectfully,

A handwritten signature in cursive script, appearing to read "Kathleen Boulware".

Kathleen W. Boulware, R.N.
Public Health Services Manager
Practitioner Investigations Unit
Practitioner Licensing and Investigations Section



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December 6, 2010

Commissioner J. Robert Galvin, M.D., M.P.H., M.B.A.
Department of Public Healthcare
410 Capitol Avenue
Hartford, CT 06134

Re: Michelle DiLieto v. County Obstetrics & Gynecology Group P.C., et al
Connecticut Supreme Court Decision: June 2910
(SC 17471); (SC17744)

Dear Commissioner Galvin,

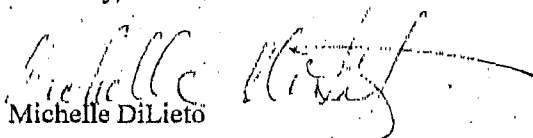
Attached please find a copy of the complaint that I sent to Kathleen Bouleware, and her generic response to me. Since I had not heard anything from your department in over a month, on November 23, 2010 I called her and left a voice message. On Friday evening November 25, 2010 she returned my call. I told her that I was very appreciative that she called me back, and that I understood why the department would not be investigating Dr. Edraki since he is no longer licensed in Connecticut. This was stated in her written response to me. However, early in the conversation I became distressed by her abrupt and dismissive attitude. It seemed to me that she was trying to find every excuse imaginable as to why she would probably not be investigating my complaint. First she stated that although it is not specified within the Connecticut General Statute, Sec. 19a-17a, she typically waits sixty to ninety days for the entity making payment to report an award or settlement. I reiterated to Ms. Bouleware that the Supreme Court issued its ruling on July 18, 2010, and that it was documented in the Connecticut Law Journal on July 29, 2010. Then she said that wouldn't be relevant as the statute should be interpreted to mean that your department would review a complaint when monies are actually received. I told her that monies had been released on October 2, 2010, which is over two months ago. Ms. Bouleware still didn't seem very interested. She continued by saying that your department does not review a complaint for investigation until the entity files its report, and that she would just wait for the report. This doesn't seem to make any sense in that if the entity never actually follows the law and files their report, your department would never review a complaint from a patient.

The fact that I did file a complaint long after the Supreme Court ruled should be enough for your department to initiate an investigation. Ms. Bouleware also stated that I could not complain about the actions of the doctors because my lawsuit was filed against Yale University, and not specifically against them. This is absolutely ridiculous. The Supreme Court singled out each and every physician in their decision, and apportioned blame and a dollar figure to each. She told me that only she has the authority to decide whether or not to investigate my complaint, and as I have already said, her tone and attitude led me to believe that she was unwilling to do so. I was adamant that she follow the law and do her job. I did remind her that in 2003 I contacted her several times, with regard to the fact that Yale University had tested my pathology slides without my knowledge or permission, and that she was as unwilling to investigate my complaint then as she seems to be now. She said that she did not recall the complaint and that tissue slides were not within the scope of her responsibility. When I told her that I have correspondence from her dating back to 2003, in which she refused to investigate my complaint, she was silent.

Chartis, Yale University's insurer is required to report the verdict and the company's payment to the agency. If they have failed to do so, it is incumbent upon your department to immediately follow-up on the fact that I reported it. I understand that your department is required to review the awards and settlements in order to determine if further investigation and disciplinary action should be taken. However, in my case the allegations of medical negligence and the injuries that I suffered as a result of the healthcare providers' malpractice have been exhaustively reviewed by a Connecticut Jury, a Superior Court Judge and the Connecticut Supreme Court, all of whom found that Drs. Babak Edraki, Peter Schwartz, and Scott Casper were responsible for misdiagnosing me with a rare form of cancer (which I never had), then negligently removing my reproductive organs and pelvic lymph nodes-none of which was necessary, and failing to tell me that I actually never had cancer after all. I now have permanent nerve damage and I have been effectively sterilized. For the Department of Public Health to ignore the findings of the Jury, which were confirmed by the Judge and the Supreme Court would be a total failure on the part of the agency to carry out its statutory responsibility.

I expect that an immediate investigation be initiated regarding my complaint according to Connecticut State Statutes. Please feel free to contact me at (203) 315-8383 with any questions.

Sincerely,


Michelle DiLieto

Attachments

cc: Attorney General Richard Blumenthal
State Representative Vincent Candelora